

REMARKS

Claims 1-2 have been cancelled without prejudice.

New claims 3-10 have been added to replace claims 1-2 and represent a modified version of the prior claims, i.e. are drafted as "Method to use....." claims.

The new claims are fully supported by the specification as originally filed and are deemed to be free of formal defects.

The Examiner's objections and rejections are addressed below.

Claim objections

Rejection under 35 USC §112

Claims 1 and 2 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e. results in a claim which is not a proper claim under 35 U.S.C. 101.

New claims 3 to 10 were drafted as "Method to use...." claims as contemplated by the Examiner.

The recitation "from the ionic point of view" has been removed and the preferred features have been introduced in dependent claims 4 and 6 to 10.

Rejection under 35 USC §102(b)

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Yvin et al. (WO 01/49304).

That rejection was raised because the Examiner has examined the initial “Use” claims as “Composition” claims.

New claims 3 to 12 do not comprise “Composition” claims.

Thus the rejection is moot.

Rejection under 35 USC §103

Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yvin et al. (WO 01/49304) in view of Bawa et al. (U.S. Patent # 4,931,279).

The Examiner construes an argumentation supposed to show that the instant invention is obvious in view of Yvin et al. and the newly cited reference Bawa et al.

According to the Examiner, Yvin et al. teach a solution of claims 1 and 2; he alleges that they further teach that the solution can be used “for treating and cleaning the eye and all its appendages” (page 4, claim 1) and may be provided “in the form of lotions intended to for washing the eye, in the form of collyria, ophtalmological gels, or to replace the water in ocular inserts” (p. 3, paragraph 84).

Applicants acknowledge that the Examiner considers that Yvin et al. do not teach the use of their solution for rinsing contact lenses.

The Examiner further considers that Bawa et al. teach that contact lenses can alternatively act as ocular inserts (col 12, claim 6) and that a person of ordinary skill in the art would recognize that clean contact lenses are imperative to good eye hygiene and that a solution that is useful for directly cleaning the eye would also be useful for rinsing contact lenses.

That argumentation is respectfully traversed.

In fact, Bawa et al. teach a polymeric matrix moldable to any desired shape which can act as a sustained release dosage form for ophthalmic administration (col 2, lines 12-20) ; the said matrix can be molded into any convenient shape for eye contact (col 9, lines 7-9) for instance shape of a contact lens (col 2, line 22).

According to the Examiner, it would have been obvious for a person of ordinary skill in the art to use the composition of Yvin et al. to rinse contact lenses, the motivation being provided by Yvin et al. and Bawa et al. with the reasonable expectation of success provided by Bawa et al. who show that contact lenses can be an alternative to ocular implants.

That argumentation is respectfully traversed.

The only teaching of Bawa et al. is to provide a sustained release polymeric matrix which is moldable to any shape, among the shape of a contact lens.

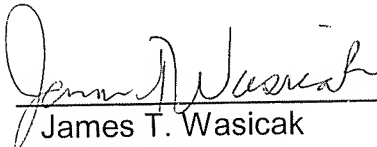
Thus, the rejection is not well-founded.

From the foregoing remarks, it is clear that the instant invention as defined in the new claims is not only novel but also unobvious over the cited prior art. Thus, the Examiner's rejection under 35 U.S.C. §103 on the basis of the cited references is respectfully traversed and should be withdrawn.

In view of the above amendments and remarks, Applicants respectfully submit that the claims are in condition for allowance. A Notice of Allowance is therefore respectfully solicited. Should the Examiner believe that a discussion with the undersigned counsel would expedite prosecution of the application, a telephone call to (312) 913-2128 would be welcomed.

Respectfully submitted,

Dated: 12-1-2006

By: 
James T. Wasicak
Reg. No. 50,803

McDonnell Boehnen
Hulbert & Berghoff LLP
300 South Wacker Drive
Chicago, Illinois 60606
(312) 913-0001 phone
(312) 913-0002 facsimile